

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds:

- (1) The Appeals Board finds that claimant served respondent with timely written claim.

The parties stipulated that on December 15, 1994 claimant sustained personal injury by accident arising out of and in the course of his employment with the respondent. Respondent referred claimant to the company chiropractor, William G. Hafner, who treated claimant from January through June 29, 1995. Under statutory and case law, claimant has 200 days from the date of last payment of compensation or date medical treatment was last provided, whichever is later, to serve respondent with written claim for benefits. Claimant served respondent with written claim on January 12, 1996, which is within 200 days of claimant's last authorized chiropractic treatment on June 29, 1995, and written claim is, therefore, timely.

Respondent contends the medical treatment provided by the company chiropractor after January 27, 1995, when claimant was released to return to work without restrictions, was not authorized and, therefore, does not extend the period to file written claim. The Appeals Board disagrees. Although the chiropractor noted on the forms he provided claimant on January 27, 1995 that claimant was "Released from work-comp today" and "Release[d] from Accident," the doctor also prescribed monthly visits for 12 months and reevaluation in one year. There is no evidence that this prescribed monthly treatment was for any condition other than claimant's work-related low-back injury.

Because claimant was not advised that the respondent or its insurance carrier had terminated claimant's authorization to see the company chiropractor, the rationale of Blake v. Hutchinson Manufacturing Co., 213 Kan. 511, 516 P.2d 1008 (1973), is applicable. Therefore, the respondent and its insurance carrier had the affirmative duty to advise claimant that Dr. Hafner was no longer authorized to provide claimant treatment before it can rely upon the "suspension" of such compensation to start the time period running within which to serve timely written claim as required by K.S.A. 44-520a. Claimant's receipt of billings from Dr. Hafner in March or April 1995, without more, is not the equivalent of receiving notice that treatment is being terminated or that Dr. Hafner was no longer authorized to provide treatment.

- (2) The issue of whether there is a causal relationship between claimant's December 1994 accident and his current condition gives rise not only to the question of the nature and extent of injury but also to the issue of whether claimant has sustained personal injury by accident arising out of and in the course of his employment with the respondent. Thus, the Appeals Board has the jurisdiction and authority to review this preliminary hearing finding under K.S.A. 44-534a, as amended by S.B. 649 (1996).

- (3) The Appeals Board agrees with the Administrative Law Judge's conclusion that claimant has failed to establish his right to benefits from this respondent. The evidence establishes that in December 1995 while working for another employer, claimant slipped on ice and aggravated his back to the extent he had to miss some work, and it was only after that incident that claimant sought additional medical attention. Before that incident claimant had gone several months without medical treatment. Claimant reported the December 1995 incident to claim short-term disability benefits. There is no expert opinion that addresses the issue regarding the relationship of claimant's present complaints to his December 15, 1994 work-related accident, and claimant's testimony fails to persuade the Appeals Board that such relationship exists when all the evidence is considered.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Administrative Law Judge's preliminary hearing Order of April 12, 1996 denying claimant benefits should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1996.

---

BOARD MEMBER

C: Robert A. Anderson, Ellinwood, KS  
Dana D. Arth, Lenexa, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director